

REMARKS

Claim 2 has been canceled without prejudice or disclaimer, since the invention is adequately covered by the retained claims, which are 1 and 3-10. Claims 1, 9 and 10 are independent, and each of claims 3-8 is dependent.

Claim 2, 6, 9 and 10 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejections are respectfully traversed.

The rejection has been technically overcome as to claim 2 by the cancellation of that claim. The features of claim 2 incorporated into claim 1 have been described in a way that avoids the rejection. In accordance with claim 1 as amended, an inwardly folded top wall has an inner face and an outer face and extends between the upper portions of the side walls and is connected to the respective side walls along transverse top connections and sealed to the respective side walls along top side seams, the inwardly folded top side wall(s) being further sealed outer face to outer face along the top side seams. At least one of the transverse connections between the top wall and the side walls is a heat-sealed peelable connection provided between an upper edge portion of the top wall and an upper edge portion of the adjacent side wall. The upper edge portions of the top wall and of the adjacent side walls extend beyond the transverse peelable connections to form gripping members accessible from the outside of the bag. Since the invention as defined in claim 1 as amended is clear and definite, it is respectfully submitted that the rejection applied to canceled claim 2 is

inapplicable to amended claim 1.

The various problems of claims 3-6, 9 and 10 noted by the Examiner have been addressed. The parenthetical expressions and the expressions of preference have been deleted, and antecedent basis has been supplied as required. The tear resistance of claim 5 refers to that of an outer sealing medium layer. Claim 9 has been amended to refer to the upper edge portion (60) and the upper edge portion (58). Claim 10 has been amended to specify that adjacent to the peelable connection the upper edge portion of one of the top wall and the adjacent side wall is folded down onto itself for abutment inner face to inner face and that the wall with the folded-down edge portion has an outer face with an outer sealing medium layer heat-sealing peelably to an inner sealing medium layer of the inner face of the other of the top wall and adjacent side wall.

Withdrawal of the rejections under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 1, 7 and 8 are rejected under 35 U.S.C. §103 (a) as being unpatentable over a US patent to Bogorad et al. No. 4,146,133. Claim 2 is rejected under 35 U.S.C. §103 (a) as being unpatentable over the Bogorad patent. Claims 3 and 4 are rejected under 35 U.S.C. §103 (a) as being unpatentable over the Bogorad patent and further in view of a US patent to Hatano et al. No. 4,915,289. Claims 5 and 6 are rejected under 35 U.S.C. §103 (a) as being unpatentable over the Bogorad patent and further in view of a US patent to Gotoh et al. No.

5,538,345. Claim 10 has not been rejected as unpatentable over the prior art. The rejections are respectfully traversed.

All of the claims rejected in view of prior art have been amended by amendment of independent claim 1. They are directed to a stand-up bag of a heat-sealable or weldable plastic film for containing flowable or pourable products. The bag comprises two opposing side walls each having an inner face and an outer face and being sealed together inner face to inner face along lateral edges thereof by means of side seams. An inwardly folded bottom wall is provided having an inner face and an outer face and extending between the lower portions of the side walls and sealed to the respective side walls inner face to inner face along transverse bottom seams and along bottom side seams. The inwardly folded bottom wall is further sealed outer face to outer face along the bottom side seams. An inwardly folded top wall is provided having an inner face and an outer face and extending between the upper portions of the side walls and connected to the respective side walls along transverse top connections and sealed to the respective side walls along top side seams, the inwardly folded top wall(s) further being sealed outer face to outer face along the top side seams. At least one of the transverse connections between the top wall and the side walls is a heat-sealed peelable connection provided between an upper side portion of the top wall and an upper edge portion of the adjacent side wall. Moreover, the upper edge portions of the top wall and the adjacent side walls extend beyond the transverse peelable connections to form gripping members accessible from the outside of the bag.

The invention as defined in the claims as amended is neither disclosed nor suggested by the documents relied upon.

The present invention relates to a stand-up bag for flowable or pourable products, said bag having the features stated in the preamble to the proposed new claim 1 and being characterised by the novel features stated in the characterizing clause of claim 1.

A stand-up bag or a free-standing container according to the preamble to claim 1 is known from US 3,935,993 and EP 0 380 110, both of record in the file of this application. Such a stand-up bag is advantageous due to its ability to stand up stably on its bottom end when filled. The bag is further advantageous in that due to its tubular shape with essentially circular, oval or polygonal cross sections it is able to hold a large quantity of contents. A stand-up bag thus has qualities which are comparable to those of bottles, cans or boxes, etc. Moreover, the stability and shape of stand-up bags offer an attractive and appealing appearance for which reason stand-up bags are used as primary packaging, i.e. as the only packaging of a product.

The above definite advantages of a stand-up bag, i.e. its stability and its ability to stand up stably on its bottom end and its attractive appearance is primarily obtained due to the transverse bottom sealing means (7, 8) between the lower edges of the inwardly folded bottom wall and the lower edges of the adjacent side wall (1,2, respectively) in combination with the sealing seams mutually sealing the inwardly folded bottom wall 4 outer face to outer

face along the bottom side seams. Without the above sealing seams, the bag would not offer the stated advantages and would thus not be a regular stand-up bag.

US 4,146,133 (Bogorad) discloses a bag for use in sterilization procedures and is made from a heat-sealable material. The only stated examples of heat-sealable materials for a bag, which can be readily sterilized, are treated heat-sealable paper or a non-woven heat-sealable material such as the type manufactured under the trade name Tyvek. Treated paper and Tyvek are porous packaging materials, which are gas- and vapor-permeable.

The bag comprises a first and a second panel 32 and 34 that define the side walls thereof. A first gusset 36, which is defined by sections 38 and 40, is formed integrally with the second panel 34 with fold lines 42, 44 and 46 being provided. A flap 48 is formed integrally with the gusset and overlaps the panel 32, the flap being sealed to the first panel 32 along a sealing line 82. Along the opposite longitudinal edge of the bag, a second gusset 50 is provided. The gusset 50 includes sections 52 and 54 with fold lines 58, 60 and 62 being provided. The marginal edge 56 of the gusset 50 is sealed to the first panel 32 along a sealing line 69 after the sterile or sterilizable article(s) has/have been placed in the bag. Finally, first and second seal means 70 and 72 are utilized for securing the end edges 74 and 76 to each other and for sealing the end edges 78 and 80 of the flap 48.

A comparison between the sterilizable bag of Bogorad and a stand-up bag according to the preamble to the present claim 1 shows that the Bogorad bag is made from a porous gas-

and vapor-premeable material, whereas the present stand-up bag is made from a plastic film, i.e. a non-porous material so as to provide a gas- and/or vapour-tight bag suitable for containing articles of food.

Further deeming the left-hand side of the Bogorad bag shown in Figs. 3 and 4 as the "bottom" as suggested by the Examiner in the Office Action, the gusset or bottom wall 50 is sealed to the first panel or side wall 43 by means of the transverse sealing line 68, whereas the gusset or bottom wall 50 is connected to the second panel or side wall 34 along the fold line 58. Thus the bottom wall is not sealed to the respective side wall along transverse bottom seams as stated in the preamble of the present claim 1.

Moreover, as clearly shown in Fig. 1, the gusset or inwardly folded bottom wall 50 is not sealed outer face to outer face along the end edges 74, 76 or bottom side seams. As noted above, the transverse bottom seams in combination with the seals mutually sealing the bottom wall along the side seams are essential features of a stand-up bag of the present invention. Without these features, the Bogorad bag does not provide the stability, the ability of standing stably on the bottom end or the attractive appearance of the stand-up bag of the present invention. Consequently, the Bogorad bag cannot be considered a regular stand-up bag. In this connection it should also be noted that Bogorad does not contain any teaching which indicates that the bag is a stand-up bag or that the bag would be able to stand stably on the end with the gusset 50.

Finally, at the right-hand side of the Bogorad bag shown in Figs. 3 and 4, the gusset or top wall 36 is connected to the respective panels or side walls 32 and 34 via the fold lines 46 and 42. Thus Bogorad does not disclose a heat-sealed peelable connection provided between an upper edge portion (16, 36) of the top wall (3) and an upper edge portion (15) of the adjacent side wall (12) as stated in the present claim 1. Accordingly, as Bogorad neither discloses a stand-up bag according to the present invention nor a heat-sealed peelable connection according to the present invention, the present invention is to be considered patentable over Bogorad.

Heat-sealed peelable connections are of course well-known to those skilled in the art *inter alia* from US 4,915,289 (Hatano) and US 5,538,345 (Gotoh) as well as from Handbook of Package Engineering. However, neither Bogorad nor the above references contain any teaching that would prompt a person skilled in the art to combine the features of the stand-up stated in the preamble to claim 1 with the features stated in the characterizing clause of claim 1 and thereby arrive at the claimed invention.

In conclusion, the present invention is not previously known and involves an inventive step over the prior art and is thus patentable. Withdrawal of all art-based rejections is respectfully requested.

Claim 9, indicted as being allowable over the art of record, and claim 10, not rejected in view of the art of record, have been rewritten in independent form. Allowance of those

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claims, is respectfully requested.

There being no further objections or rejections, the application is in condition for allowance; issuance of a formal Notice of Allowance is respectfully requested.

If a telephone interview would expedite the prosecution of the application, the Examiner is requested to call undersigned counsel.

Respectfully submitted,
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